

MINUTES
WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
Monday August 26, 2013 at 6:00 P.M.

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Jeff Valiant, Chairman, Don Mottley, Tina Baxter, Judy Writsel, Mike Winge, and Jeff Willis

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director; Molly MacGregor, and Jamie Key, Staff.

MEMBERS ABSENT: Terry Dayvolt

MINUTES: Upon a motion made by Mike Winge and seconded by Tina Baxter, the Minutes of the last regular meeting held July 22, 2013 were approved as circulated.

The Chairman explained the rules of procedure.

SPECIAL USE:

BZA-SU-13-13

APPLICANT: Audra Craft

OWNER: Joseph & Audra Craft

PREMISES: Property located on the S side of Tennyson Road (N150) approximately 1652 ft W of the intersection formed by Roth Road(E/W 0) and Tennyson Road(N 150). Greer Twp. 333 W Tennyson Road. (Complete legal on file)

NATURE OF CASE: Applicant requests a Special Use, SU 24, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a kennel not exceeding thirty (30) dogs in an "A" Agriculture Zoning District. (*Advertised in The Standard August 15, 2013.*)

The Chairman asked for the applicant to step forward.

Audra Pryor Craft was present.

The Chairman called for a staff report.

Mrs. Rector stated they have received all return receipts from certified mail from adjacent property owners. She said this is an application requesting a Special Use, SU 24, to allow a kennel not exceeding thirty (30) dogs and they have answered the questions on the proposed use statement. She said the existing land used is a single family dwelling with accessory buildings. Mrs. Rector stated all surrounding property is Agricultural Zoning Districts with no flood plain and the property has one driveway on Tennyson Road.

Mrs. Rector stated a complaint was filed July 13th stating *“Address 333 West Tennyson Road is operating a dog kennel which has more than 6 dogs (at) a time being housed. Barking more often than not, disturbing the residence in the area. We are not, I believe zoned for this type of business.”* Mrs. Rector added on July 25th another complaint was filed stating *“Crafts running dog breeding business in residential area. Excessive barking, odor from animal waste obstructing neighborhood serenity. My husband Kim was told when he filed his complaint that Mrs. Craft stated that she was breeding dogs. She also told Eric, a guy who deer hunts on our property about her dog breeding business.”*

Mrs. Rector said Dennis Lockhart, the Warrick County Zoning Inspector, visited the site July 26th to take pictures; he stated *“At the time of my visit there were 12 dogs in the outside kennel and 4 dogs in the house. The horses were in a barn but they let them out in the afternoon. I did not see the horses.”*

Mrs. Rector said the owner, Audra Craft, came in on July 26th and filed for the Special Use to come into compliance. She said Mrs. Craft has submitted 13 affidavits filled out by people who had visited the property stating the date and time of their visit and that there was no barking heard from the dogs in the pens located at the back of the property. She said Mrs. Craft also indicated to staff there was no breeding. Mrs. Rector said there is also a statement from Danielle with Warrick County Animal Control with dates and times she had visited the property and did not hear dogs barking. Mrs. Rector said Mrs. Craft has submitted 17 letters of support for her kennel.

Mrs. Rector said Mrs. Craft stated she is with Happy Dogs of New England, a non-profit corporation. She said they work with multiple rescue groups and shelters throughout the Midwest to rescue dogs, give them any needed medical treatment, including spaying or neutering, and relocate them to the New England area, which has a high demand for rescued animals. She added Mrs. Craft acquires dogs from local shelters and keeps them at her residence until they are adopted out, usually up to New England; the dogs stay at her residence until she has several that are adopted, and then she takes them all up at once. Mrs. Rector added Mrs. Craft has indicated she makes one to two trips a month with approximately ten to fifteen dogs and there are more details in Mrs. Crafts proposed use statement. She said Mrs. Craft also has stated she has twelve dogs of her own that are kept in the house. Mrs. Rector said the twelve dogs are included in the thirty, she is not asking for forty-two dogs, she is asking for thirty total.

Mrs. Rector stated that she received a letter this evening from the Warrick County Health Department that states *“To Whom It May Concern, in regards to the Audie Craft residence, I have not received all the necessary information in order to make a final determination. If all the information is accurate, the system will be allowed to handle all the waste from the dog kennels*

(per the Indiana State Department of Health). Once all the information is in hand I will give Ms. Craft 45 days to make the necessary connections to her septic system. If you have any further questions please feel free to contact me at any time. Aaron Franz, Administrator of the Warrick County Health Department. “

Mrs. Rector added Mrs. Craft has been doing everything she can to get the requirements from the Health Department satisfied, so she has been working hard at that. She said the Board has all the letters from remonstrators in favor of the application. She said in their packets are also pictures done by the inspector and it is all in order.

The Chairman asked Mrs. Craft if she had anything to add to the staff report.

Mrs. Craft stated first of all they do not breed dogs, they are into rescue and that is not anything a rescue would ever do. She said they are a non-profit organization, she is a volunteer. She said many of the claims in both of the complaints are false. She said she is not sure where that information came from. She said they have tried in the last month to get as many people to come out as possible to see that they are not causing a nuisance. She stated they are peace loving people and all of their family members volunteer for something, not just rescue. She said she grew up in this area, she is a Pryor. She said they try to be productive members of society. She said the rescue that she started in 2009 is very near and dear to her heart, as are dogs. She stated she has twelve dogs in the house that are all her babies. Mrs. Craft stated many of them will die within the next three years because they are old. She said the thought of potentially losing them because one person said something, that doesn't hold a lot of water, is upsetting. She said she has been extremely reactive, patient, calm, compliant, logical, prepared, and determined because she wants to be granted the special use so they can continue to have their animals. Mrs. Craft said they have a six foot privacy fence all around their property. She said every now and then a dog gets out, that doesn't happen very often. She said she is home most of the time. She said they own Craft Financial Solutions across from Tastee Freeze, her husband is there and she is usually home working or with the children. She stated that she doesn't leave for very often at a time because of the animals that they have; that is their life. Mrs. Craft said her husband can attest that they do not make any money at this. She said it is a non-profit, and they put a lot of time and money into it. She added that this is a daily thing for them so this isn't something that they are taking lightly. She said animal control has come to their property several times, without their knowledge, and documented that they are not hearing excessive barking in the back. She added frankly, she doesn't like barking dogs. She said they live there and have an office there and many times she is on the phone; many times her husband is working from home and many times he is on a conference call and they do not like excessive barking. She said if they have a rescue dog that is excessively barking she will be calling to see if they can do a trade with another rescue because they are on the phone too much and do too much business out of their home, in their home office. Mrs. Craft stated she appreciated everybody coming out tonight, this is extremely important to her. She stated both of the Allens on the adjacent property to the west, and the Broshears, who own the farmland on the east side, have put letters in the packets. She said Mr. Allen said he didn't know she had kennels. She put them on the east side for a reason. She said she was trying to place them in the best possible place in case they did bark. She said they also have moved their poultry because the dogs used to be able to see them and would bark. She said she has no control over what the dogs do if a deer walks by, and that will happen. Mrs.

Craft said she can guarantee them, and she will go so far as paying for security cameras to prove it, there is not excessive barking. She said at one point in time she could see where Mr. Barchet would have a complaint for that because they were still putting up their kennels. She said they are still continuing to make improvements. She said Mike Winge had come out when she wasn't there, and they are not finished. She said they want to improve everything. She said they want to add more paint on the concrete and all sorts of things, but they have paused until this was over because she doesn't want to stick a lot of money, time, and effort into something that might get shot down. She said she was told by several people to maybe pause a little bit so there's a lot of reasons why they didn't continue on with things, and there's a lot of plans that have still yet to be made, and she would be happy to share those with the Board. Mrs. Craft said it is their sincere plan to continue to make that place better and better because in New England, where they lived for four years and the reason she started Happy Dogs, the laws for animal importation are extremely particular. She said they can't just send a dog up there; they spend weeks getting a dog prepared to go to New England. She said you can't just go get a dog from Animal Control and put it on the transport bus. She said they have worming, tests, vet visits; they work with several vets in the area, Dr. Maucks office, Traci Scamahorn, and Julie Webber are the two main health certificate vets that they work with, and if you ask them about the dogs they work with they will tell you they are pristine because they are. She said you can't take a dog across state lines in New Hampshire without it being in pristine health. She said you have to have health certificates on all of the dogs because the driver could be pulled over at any time and have to show everything. She added they have to do everything by the book. She said so to do that they need clean kennels; they need puppy runs that have concrete so they could wash them off. She said they could go with gravel, which would be easier and may save them the trouble with the septic, but that would not be fair to the dog. She said if you put a puppy on gravel where a dog had been who had parvo or something you are killing that puppy. Mrs. Craft said this is extremely important to them and she thanked everybody who helps because she said this is not a one woman show. She said it is basically their claim that the Barchets complaint was unfounded. She said maybe early on she could see that while they were putting things in they weren't as organized then, but they have quickly become more organized and more ready to help the animals from the south get up north. She said it is their plea to the Board tonight to grant a special use permit under the agreement that they will continue to act in a manner that is compliant, logical, and they will try their hardest to not be any kind of nuisance. She said she offered to bring the dogs inside, she doesn't want to because it is not the best thing for the dogs to be inside due to the increased threat of airborne diseases. She stated they have been doing this for many years before they moved back to Boonville, this is not new to her, she's done this for almost fifteen years but they are the new to the area so they are having to start over with the new residence. She said their intentions are to comply with the mandates made by the Area Plan and the Health Department, should the Board choose to grant approval, and she would be happy to answer any questions at any time.

The Chairman asked for questions from the Board.

Don Mottley said they were given a book at the beginning of the meeting, and he has not had time to read it so he would like to table the special use until next month so they have time to read the information and to also give Mr. Franz the necessary information to make his final

determination. He said he does not want to approve or deny this and then get documentation later that it should have been approved or denied.

Mike Winge stated it could be approved based on that final determination if we went ahead with everything. He said he would like to see what we have here. He added if it is approved it could be based on those reports.

Don Mottley inquired to the Board if they have had enough time to read all of the information.

Judy Writsel stated she got through it.

Mike Winge stated he drove out to the place and he had obtained a copy of most of the information ahead of time and was able to read through it.

Judy Writsel stated she had also gone out to the property and was able to read through quite a bit of the information as well.

Don Mottley said he was there on Friday evening and parked at 275 W Tennyson Road and sat there long enough for the gentleman and his wife that took him out there to smoke a cigarette. He said he could hear dogs barking. He added that it wasn't annoying barking but he could hear them. He said he then went to the next driveway, to the west, 411 Tennyson Road, and sat in that driveway and could hear the same barking. He stated he personally would like to be able to read through everything because they had denied a gentleman 2 or 3 years ago. He said they denied him for twelve to fifteen hunting dogs and what's going to happen if they approve this tonight, he is going to come back and they will have to vote yes for his kennel to be fair.

Mike Winge said in his opinion, a lot of people have come up here tonight and he thinks they should hear what they have to say, and if it's determined it needs to be tabled then they could.

Mrs. Rector said right but you could hear everyone tonight and then if we have to table it to next month then....

Judy Writsel said she personally sees a big difference between hunting dogs and pet dogs. She said hunting dogs incessantly bark, so they are a totally different category of animal in her opinion.

Mrs. Craft said they are not the only ones in the neighborhood with dogs. She said her next door neighbor, Mr. Allen has a dog who barks a lot and he's right next door to her. She said they don't care but it carries too.

Don Mottley stated his neighbors dogs bark all the time; it is a lab and in the morning when somebody is around the house it barks.

Mrs. Craft added that recently they have switched the back area to just puppies, because they had the best place for that. She said so at one point in time she did have larger barking dogs but now she doesn't. She added that the puppies play bark but it's really unusual to get a puppy standing

at a fence just barking because they would rather play. She said so things have changed even since the first part of July.

The Chairman asked the Board if they had any other questions.

Judy Writsel asked Attorney Doll about noise ordinances in the agricultural zoning.

Attorney Doll said there is no noise ordinance.

Mrs. Craft stated there is a cornfield between her house and the Barchets, that's over 250 feet and a lot of times you can't even see the houses because of the corn.

The Chairman asked Mrs. Craft what is the average number of dogs they usually have on site.

Mrs. Craft said about 30, including her dogs, but they are not counting the tiny puppies that are only five weeks old. She said the kennels were made specifically to allow plenty of room for the dogs. She said they do not want the dogs to be overcrowded because that would cause stress on the dogs, and is asking for protozoa, coccidia, and lots of problems that they cannot deal with. She said they want them to be healthy and happy which includes stress free so they don't want them to be crowded at all.

The Chairman asked how long had she been at this residence.

Mrs. Craft said they have been doing Happy Dogs since 2009, but she has been in rescue for a long time, and she has been at this residence since December 2010, and so they didn't start the rescue there until the following spring.

Mike Winge asked Mrs. Craft what their cleaning process is.

Mrs. Craft said they use Pro-Vet Logic, the same stuff Dr. Maucks office uses. She said it is a parvo killer, and it's an all-in-one that also smells really good. She said they use a power washer, which they usually don't have to use with the puppies because their feces is softer, they can use a water hose on them, and they clean the areas out two to three times a day. She said any given time somebody comes out they will see feces, that's just the way it is. She said as soon as they clean the dogs go to the bathroom again. She said they do it early in the morning, then in the late afternoon, and then sometimes before dark. Mrs. Craft stated that is where the sewer thing comes in. She said her plan, before there was a complaint, was to have some sort of drain-off system. She said she called Animal Control and Warrick Humane Society and basically they don't have a lot of puppy runs that they have to wash out, they walk their dogs outside on the gravel. She said with the puppies you can't do that, and gravel allows a quagmire of germs which is why they want to do the concrete. She said therefore that asks for more from them but they are willing to do that to keep the health of their dogs.

Mike Winge stated to Mrs. Craft that she had mentioned she had other plans that were on hold.

Mrs. Craft said that was basically the septic, and she wants to paint the rest of the runs. She said they are going to put concrete on the indoor area, paint the walls with a non-permeable material, and add shelves to hold medications and things. She said it is heated in the winter, and they do run the air conditioner in the summer if they have to but a lot of times they just run a fan. She said the main thing is to keep the dogs stress free. She said it is very important to keep the dogs stress free. She said they are already stressed from coming from the shelter, getting a micro-chip, Warrick Humane helps with that, and then they take a twenty-two hour trip. She said so their bottom line is to keep everybody stress free, prior to the trip especially. Mrs. Craft said when they first moved back to Boonville she wasn't sure she was going to continue the rescue here but the group has grown and she stated that once you are in rescue it is hard to get out, especially when you go to animal control and it's a matter of them putting them to sleep or you taking them.

Mrs. Rector asked Mrs. Craft about the organization being non-profit, but on the website its \$475 to adopt a dog from New England.

Mrs. Craft said she could break the costs down for her.

Mrs. Rector said that is what she would like, because if you look at what they are charging and they said they are taking about twenty dogs a month up there then it looks like they are making a good living.

Mrs. Craft said that is not the case.

Mrs. Rector said she's sure she is not, she doesn't know what they pay for vet bills and other expenses but she wants it to be clear it is not a business that she is running at her house to make a big profit, because that is what it appears.

Mrs. Craft said on a regular basis she puts her own money into it. She stated the breakdown on the \$465 is \$140 goes to transport, a little over \$100 per dog goes to the vet, just for the spay and neuter, then they have the shots, then food, Health Certificates and a 48 hour quarantine. She said a vet sees them on this side and another vet sees them on the other side. She stated she also pays her driver.

Joseph Craft approached the podium. He stated he is a CPA and is the organizations accountant and it is definitely a non-profit organization.

Mrs. Craft said when they have a transport going this week and just so they know, all of the people haven't paid yet so she will probably stick \$1000 of her own money in, and then hopefully take it back out once all the credit cards hit, so it is a labor of love. She said there are many times when she thinks it would be easier to stop but those eyes look at her.

Tina Baxter stated that in the photos it looked like she has a privacy fence all the way around.

Mrs. Craft said it is a six foot wooden fence.

Tina Baxter said in the pictures it looks like there is a fence coming up along the run also.

Mrs. Craft said they added that after the first complaint.

Tina Baxter asked if they were going to complete that.

Mrs. Craft said they need to get through there to walk into there. She said the purpose of that fence is to separate that from their house. She said her intention was if they (Mr. & Mrs. Craft) were to look over there straight they would have to go way down their property to look down at an angle to see any of the kennels. She said so when her neighbors look over towards her property they would see fence everywhere.

Tina Baxter said she understood that but would that leave it where the dogs could still see something to bark at.

Mrs. Craft said frankly they were barking at him some because he was over there mowing and tending to his garden. She said that is another reason they went to puppies was because A) they needed someone with the facilities to do puppies on concrete, and B) she wanted to dissipate that a bit and that was a good way to do it. She said the puppies can't see each other, they can't touch noses, and that's all in the interest of disease control. She added that they quarantine them for 2 weeks.

Don Mottley said when he went out there he did not go on the property because the Board members are not supposed to have contact with the applicant. He said a lot of the stuff such as the block, he has not seen. He asked Mrs. Craft about the three pages in her application that said adoptable dogs; he believed it meant that all of those dogs were available.

Mrs. Craft said yes, she did not know where the photos were taken from that he was referring to; perhaps it was off of their website. She stated all of the dogs on the website are not all at her house. She said they have affiliates in Tennessee and fosters other than herself. She said before they came back to Indiana, they didn't get their dogs in Indiana, they all came from southern affiliates, they were the ones that fostered them, and they brought them up through their umbrella organization; so they do have several other affiliates, including Warrick Humane Society, Gibson County, and Spencer that are listed on their websites so they can send their dogs up with them. She said so you can't go by that list and think that all of those dogs are at her house because they are not.

Don Mottley stated he would like to see a list of the thirty dogs that will be at her house. He said he'd like to know what kind of dogs would be there. Mr. Mottley stated a Chihuahua will bark all of the time. He said his neighbor had four of them and there wasn't a quiet moment, those four Chihuahua's barked all of the time.

Mrs. Craft she does not have anything but puppies and smaller dogs. She said the biggest rescue dog she has now is a jack russell.

Don Mottley stated he might learn a lot of this stuff if he had a chance to read through everything, so that is why he is asking the questions.

Tina Baxter asked about how the dogs are rotated out.

Mrs. Craft said if she will look at the list of her personal dogs, some of them are extremely old and very small.

The Chairman asked if they were kept in her house.

Mrs. Craft said yes, they have an extra area in her house off of the laundry room that is just for the dogs. She said they have indoor/outdoor doggie door, they call it the happy room, and has tile and a bathroom off of it.

Tina Baxter asked about the other dogs and how they were rotated out.

Mrs. Craft said two weeks is about the amount of time she has a rescue dog. She said sometimes they are not there very long at all because they are highly adoptable and sadly those are the dogs they try to pick. She said if you pick the highly adoptable dogs then you are able to save more. She added it's sad to have to choose.

Tina Baxter said she just wanted to know that the dogs in the pictures are not always there.

Mrs. Craft said it is a revolving door, that's a good way to look at it.

Mike Winge stated he is all for the non-profit business, and dogs are going to bark. He said what he would like to hear is what the people that are here tonight have to say.

The Chairman asked for remonstrators for or against the special use to step up.

Brenda Foley, Executive Director for Gibson County Animal Services approached the podium. She stated part of her job is to go to any rescue that is interested in pulling from their facility. She said Gibson County Animal Services is a county funded shelter; they are a private corporation who has a contract to provide animal control for the county. She added they are a shelter that euthanizes. She said they are a small rural community shelter that has fifty to sixty dogs and cats in their shelter at any given time. She said they are so full that if one dog walks in tomorrow they will have to euthanize. She stated one of her responsibilities as a Director, for any rescue that comes and is interested in pulling animals from them, is to ensure that animal is going to a proper rescue; a rescue that acts with integrity, and is going to ensure proper placement of that animal because their philosophy is there are far worse things than death, than just turning that animal over to just anybody. Brenda Foley said she has had the responsibility, and the pleasure, of visiting Happy Dogs at their site. She said they have been very pleased with the cleanliness of their facility. She said they go above and beyond to provide vet care for every animal that comes into their organization. She said they provide vaccinations, ensure they are healthy, and if there's an issue they are upfront and honest about that issue. She said she has visited the farm and there has never been excessive barking. She said Mrs. Craft has a senior

dog suite, her Happy Room; these are animals that are just living out the rest of their lives, which for the average person to take on a senior animal with health problems is admirable. She said she has had the occasion to be there for meetings with other local animal welfare advocates and has never had excessive barking, never noticed any odor, and has been pleased with the group overall in being able to place a lot of dogs. She said her responsibility as a Director is to inspect each facility that pulls dogs from her facility to ensure that those dogs are going into proper placement.

Jennifer Williams, Adoption Coordinator and Transporter for Happy Dogs, approached the podium. She said she is also a shelter liaison, which means she works with all of the local shelters to try to find the right common place for their fosters to go to. She said not every foster home is going to be the right home for every dog. She said she herself cannot take puppies, she does not have the space for them, and so she does the larger dogs, a lot of the barkers. She said they put a lot of puppies with Mrs. Craft, she does a lot of puppies and they move fast. She said two weeks ago they did a transport and Mrs. Craft had seventeen dogs that left. She said those were dogs that she had had for two weeks. Ms. Williams stated their protocol is very tight; they keep a dog a minimum of two weeks in their foster home to ensure disease control, and help them get to know the dog one-on-one to have more information for the adopter. She said they are leaving again Friday with twelve dogs, out of those ten are coming from Mrs. Crafts. She said they are all puppies. She said their affiliates from Tennessee list their own dogs and put them on a pay transport, they don't send the dogs with them. She said they started doing their own transports because she personally picks them up from the shelters, she takes them to the vet, and this allows them to get more one-on-one time and get to a better connection; so when they put them on transport it is less stressful for the dogs, they just think they are going to the vet with Jen again. She said Happy Dogs is not about just adopting a dog out, it is about quality adoptions. She said New England's laws are very tight; every dog has to be registered, vetted, and if they are not registered within a certain time frame the police are sent to the home. She said they take this very seriously. She said in turn they get awesome adopters from up there. She said this is something our community can never provide. She said several years ago Warrick County was in bad shape with animal control, but many of the dogs that are going up to New England are coming from Warrick County Animal Control. She said without Happy Dogs and Mrs. Craft they'd be back to square one.

Kim Barchet approached the podium. He stated he lives at 275 W. Tennyson Road, and he and his wife had filed complaints. He said they have lived there for nineteen years; it has been a quiet neighborhood with no problems at all. He stated as they said the dogs don't bark only when he comes out and mows his yard and does his garden. He added that he is an environmentalist and he works with his land. He said their dogs are barking but since he came up to file the complaint, they came up to file for their zoning permit. He said the point he has is they are doing a great job but this is a residential area being zoned for commercial and it's causing a noise problem and causing a varmint problem. He said he has been trapping more raccoons, more opossums and shooting more coyotes than he has in the nineteen years that he has been there. He said this operation is bringing in varmints. He said that is all he has to say. He stated they are doing a great job but not in his neighborhood. He stated what they are building up, if they are a non-profit organization, where are they getting the money to do it. He added it takes money to do this so there has to be money being made here. He said as they said

it's non-profit which is great but you have to eat and you have to pay your bills so how are they not making any money at this; that is his point. He stated to cut this short, they are going to try to put a commercial operation in a residential area which will take their property values down. He said he is paying quite a few thousand dollars in taxes a year, and their house has devalued this year by \$3,000. He said is it because of them. He said if he was to sell that house, they would see the kennel next door to him and would not want the house. He stated he is two-hundred feet away from their place. He said they have an accounting business there, they ran the business six or eight months before they even came up to get a permit to zone; he calls that illegal operation.

Pat Barchet approached the podium. She stated they say the dogs do not bark and played a recording of a dog barking which she said goes on for four minutes.

Becky Sutton approached the podium. She said she is from Seabree Kentucky. She stated she met Audie through Davis County Animal control in Owensboro. She said she lives out in the country and has coyotes, opossums, skunks, and raccoons; she has thirty acres that she lives on with twenty-two horses and about fifteen to twenty dogs at any given time because she seems to be the drop zone for everybody around and she is an animal lover so she can't do anything about it. She said she was blessed last year with two different groups, one being a pregnant dog and she didn't need any more babies. She stated some people at Davis County got her in touch with Audie; they texted a lot and she had never been to her house. She stated they had six puppies in the first litter and she made arrangements with Audie and went up there in December of last year. She stated her husband and her drove up, and that was before all of the improvements had been made, and they thought they were in the wrong place. She said Audie was able to put those pups on rescue and they were gone quickly. Mrs. Sutton stated before she could get the momma dog fixed she had five more puppies which Audie was also able to place. She stated she has since done some fostering. She stated she came up because she appreciates the work that they do. She added that when she got to Audie's facility she did not know how many dogs she had, which at the time there was probably fifteen or twenty and some older dogs. Mrs. Sutton stated she didn't notice anything at that time. She stated the waste shouldn't be a problem because the food they feed their dogs is a higher protein food and hosing it down will break it down to nothing. She added that there was no smell, it was a very clean environment; cleaner than most shelters that she has visited. She said she understands if somebody has a problem with barking, she has to listen to coyotes all night, which gets her dogs started too; dogs are going to bark. She said her dogs bark at her horses. She said the first time she went up to Audie's she had no idea that many dogs were there and her husband asked her why can't their own dogs be that quiet.

Mike Winge stated that he wanted to add something to the comment from the gentleman who talked about the dogs attracting the raccoons. He said that he doesn't own a dog, he did but now he just has chickens, and he has trapped and released five raccoons in the last two weeks so it is not just the dogs attracting the raccoons.

Mr. Craft stated that he agreed, he doesn't think it has anything to do with the dogs. He also stated that the gentleman was asking about how they were paying for all of the improvements and he said they are paying for it personally.

Alisha Joslee approached the podium. She stated she is Audie's sister and she lives in Pike County. She said Pike County does not have an animal control. She said there have been two instances on her mail route where she has found an abandoned dog with puppies and Happy Dogs has helped her rescue those puppies that would have starved to death and died. She stated they do wonderful things.

The Chairman asked that in an effort to save time, the people who are there to speak about how clean the facility is, the integrity of the job, and all of that to please raise their hands. The Chairman counted seventeen people who raised their hands and stated that was the majority. The Chairman then asked that if anybody had something different to discuss to please approach the podium.

Eric Pryor approached the podium. He stated he appreciates what they are doing and appreciates that their job isn't to go out and look for trouble. He stated he doesn't know Mr. Barchet but he has heard some things and does know that Mr. Allen who lives on the other side of Audie, was woken up one morning after his daughters softball team tee-peed their house after they won something; Mr. Barchet, three doors down, woke him up to tell him to be sure he got all the tee-pee up before it blew on his property. He said obviously this is hearsay but he does know the world is full of people that just want to make sure other people don't get ahead or do anything good. He said he hopes the Board considers this. He stated he is on the Warrick County Redevelopment Committee and he doesn't like to get anything thrown in front of him right at the meeting that he has to vote on. He said he is at Audie's all of the time and until today he had no idea she had that many dogs. He said so he hasn't noticed it and Kelly didn't even know and he lives right next door.

Don Mottley stated he wanted to go on record and state that he was associated with PAWWS years ago. He stated he helped them with their bylaws so he just wanted to make sure that everything was here tonight to be on record because some of them probably remember him from PAWWS.

Mrs. Rector stated in the offices' defense this is not just brought up and thrown at them in tonight's meeting. She said they had a month to get any of the paperwork and go to the property; this was not all just put together today.

The Chairman asked for any other remonstrators.

Susan Broshears approached the podium. She stated she fosters for Audie and Audie also gets hay from her. She said they were there Thursday for about forty-five minutes, one dog barked for a few minutes and then stopped and that was all. She said they were there throwing hay and hitting the barn and she heard nothing out of the dogs.

Mrs. Craft stated that she thinks Mr. Barchet believes that they are making a lot of money out of this. She said they offered Mrs. Rector the tax returns for their non-profit organization, and she didn't want it but she is still willing to offer it. She stated this is a labor of love and she believes Mr. Barchet sees them going back and forth loading and unloading dogs and assumes things. She said she thinks a lot of his complaints are based on assumptions. She stated Mrs. Barchet didn't allow Mr. Barchet to speak about some of the other complaints that he wanted to make;

they started to complain that she was breeding dogs and boarding horses but Mrs. Barchet stopped them because that was just hearsay. Mrs. Craft stated she has never meet Mr. Barchet; he has ignored them when they wave and she is not like that. She stated dogs do bark and she has more people that are willing to come but she asked them to hold off but she could fill the room. She stated they will do whatever they need to do. She said they talked about building something up by the lake but she doesn't want to spend \$40,000 to make one person happy but she doesn't want to lose her dogs either. She said whatever Mr. Barchet's complaints are, because he probably will keep complaining, if they are granted the special use, they will do everything within their power to make sure that he is not encroached upon, or bothered.

Mrs. Rector asked Mrs. Craft what the plan was with the septic systems; were they going to hook into the existing system or put in a separate one.

Mrs. Craft stated that depended on what Becky Lankford says. She said once the soil test is done they will have a better idea of what to do. She said when she talked to the state, Mr. Ed Miller in the State Health Department, he felt like a residential unit would be fine. She said the kennels are lower than their existing system so it's whether or not they want to lift, which is sometimes discouraged, Mark knows more about this than her so she will divert that to him, but they do have a lot to consider and she is going to let Becky, Mark, and Aaron decide what is best.

Mrs. Rector said so either or, it will be what they come up with.

Mrs. Craft said yes, she is leaning towards doing one in the back just for the dogs because it is further back and lower, but then again she is not an expert.

Mrs. Rector stated that in the letter from Aaron Franz with the Warrick County Health Department, he stated forty-five days would be given once all of the information is in hand.

Mr. Craft stated that he does not want to drop six grand into this septic system until he knows that the Board will okay the special use.

Mrs. Craft said a lot of it depends on what the state says. She said a lot of it will come out of her checking account.

Don Mottley stated that since they are not for profit Elberfeld Block might be able to donate materials.

The Chairman stated he had two quick questions based on the earlier testaments. He asked once the dogs are transferred, how quickly does that backfill.

Mrs. Craft stated typically it is less than a week, shelters are overflowing everywhere. She added that they like to clean in between so it's around one or two weeks.

The Chairman asked if the special use is approved how long would it take them to finish the improvements that have been put on hold.

Mrs. Craft stated she has her contractor coming tomorrow. She said she wants it done quickly because she likes to be organized. She said the biggest expense will be the septic, but she also wants to get the inner area fixed up with shelves and organize everything. She said she would like to have everything done before winter.

Mike Winge asked if it affected her operation.

Mrs. Craft said no it doesn't, it just would make it nicer and more convenient.

Mrs. Rector asked Mrs. Craft about when her older dogs pass away, did she plan on replacing them.

Mrs. Craft said no.

Mrs. Rector said okay, but you still want to stay at the thirty.

Mrs. Craft said yes.

Mrs. Rector questioned that she definitely wants to keep all twelve of her dogs, no matter what, because anything over four is a kennel.

Mrs. Craft said if they came away from this and she felt like she was going to lose any of her personal dogs, she would do something drastic. She said she is saying she would move or buy another piece of property and put a pole barn up.

Mr. Craft stated that they are not going to lose any of their personal dogs; if they lost the Board would have to give them some time to transition.

Mark Krantz approached the podium. He stated he has been hired as the general contractor pertaining to the septic. He said there will be a soil scientist out there tomorrow to make a determination of what style of system will be adequate. He said they will then meet with Aaron, get a permit and go from there.

Mike Winge asked if that was virgin soil.

Mr. Krantz stated he believed it was. He said even the home system got involved and it was cameraed and pumped and everything is up to snuff with it. He said there will be a letter forth coming on that but there is no reason that this can't work and work fine.

Mike Winge stated this is a compassionate thing and they are doing good with it and personally he hopes everybody goes along with it, and would like to get it taken care of tonight. He added that it would have to be subject to...

Mrs. Rector stated yes it would be subject to the Health Department and there is no signage allowed, Mrs. Craft knows that.

Mike Winge said because with what they have stated there are some requirements that they would have to meet, but they are already saying that they would meet those requirements.

Mr. Craft stated another thing is there is nobody coming to the house besides the fosters and the transport team.

The Chairman called for a motion.

I, Mike Winge, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.
7. The USE is a permitted use in this zoning with the special use approval.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to all public utility easements and facilities in place.
3. Subject to the rules and regulations of the Warrick County Health Department and a waste disposal system being approved by the Warrick County Health Department.
4. Subject to any required State or Federal Permits.
5. Subject to no more than 30 dogs living on the property.

The motion was seconded by Don Mottley and unanimously approved.

BZA-SU-13-14

APPLICANT: Natalie's Playhouse, by Natalie Cavanaugh, owner

OWNER: Kevin and Natalie Cavanaugh

PREMISES: Property located on the S & E side of Valley Road approximately 400 feet N of the intersection formed by Valley Road and Center Ridge, Ohio Twp., Lot No. 12 in Rustic Hills Pt. 4 Subdivision.

NATURE OF CASE: Applicant requests a Special Use, SU 27, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a childcare center which has at least seven and no more than twelve children not related to the provider in a single family dwelling in “R-1A” One Family Dwelling Zoning District. (Advertised in *The Standard* August 15, 2013.)

Natalie and Kevin Cavanaugh were present.

The Chairman called for a staff report.

Mrs. Rector stated we do have all return receipts from certified mail of the notice to the adjacent property owners. She said they are requesting a Special Use to allow a childcare center which has at least seven (7) and no more than twelve (12) children not related to the provider. She said the plot plan shows they will be using 900 sq. ft. of the residence and has an area that would allow 4 parking spaces. She said they have answered the questions on the proposed use statement which the Board has in their packets. Mrs. Rector stated it is a single family dwelling, and all surrounding property is R-1A Residential Zoning District with no flood plain. She said the property has one driveway on Valley Road.

Mrs. Rector stated a complaint was filed on August 19th stating “*A daycare center has been operated commercially in an R-1 residential area since June of 2013. This being in violation of R-1 zoning laws. This is not a residence for the owners as they reside at 6644 Center Ridge Road, Newburgh where the daycare center was in operation. Now it has been moved to 6677 Valley Road to an R-1 home that they have moved the daycare center into. As has been observed in other judgments “A commercial activity in a R-1 residential area is against the fundamental right of the citizens owning nearby property. The property at 6677 Valley Road is not the primary residence of the persons who are operating the daycare and as such put them in violation of Indiana Code SS: 36-7-4 concerning child care centers and zoning. If the property is to continue to operate the surrounding property values will be affected in a negative manner and it will make it more difficult to sell our properties. I am awakened every morning before 7am with vehicle doors slamming as the children are dropped off, as my bedroom window faces the driveway of 6677.”*

Mrs. Rector stated we have also received 3 letters of remonstrance from neighbors. She said their main concerns are a commercial use being operated in a residential neighborhood, increased traffic, and their property values being decreased. She added there are copies of these letters in your packets. Mrs. Rector stated when Mr. Cavanaugh came to the office regarding the application, the staff that was waiting on him stated he insinuated that they were living at the residence. She said however, when Mrs. Cavanaugh came in to file the application she stated they lived around the corner and do not live in the residence; therefore she had a question for the attorney whether the special use for the child care center requires living in the residence because there is no definition in the ordinance. Mrs. Rector asked Attorney Doll to explain.

Attorney Doll stated the Indiana General Assembly has adopted a tiered system of child care homes as well as a child care center and administrative center definition by state statute; state statute as you know preempts local ordinance regulations in contradiction to those statutes. He stated in the child care home definition there are two classes; class one and class two. He said class one is a smaller size of six or less. He said class two is seven to twelve children, it might be a little more than that during summer vacation if there is a sibling already in this facility; it can have its older siblings join it for a limited time during the summer. Attorney Doll stated the state statute then authorized the child welfare services for the State of Indiana to adopt a regulatory code governing the regulation, supervision, administration, inspection, fire safety concerning childcare homes. He said Mrs. Rector and he reviewed his findings and he asked her to include in the Board members packets a copy of regulation 470 IAC 3-1.1-16. He stated in that circumstance under subsection A a residential structure, which is what this will be because we are in a residentially zoned district, means a dwelling unit as the terms are defined in a section of the Indiana code, it may be the applicants own residence but you'll notice it says it may be the applicant or licensee's own residence; it does not say shall be, must be, has to be, ought to be. He said this simply means a child care home operation may actually be in the applicants' residence but nothing in Indiana law requires it to be in the applicants' residence. Attorney Doll stated he looked at the citation in the reference to the complaint which is actually not described accurately in the complaint. He said it is actually 36-7-4-1108 of the Indiana Code and it applies to childcare homes and primarily that is also used as the primary residence of the person who operates the child care home business. He said again, it doesn't say they must be the residence or the operator of the business it just talks about if it happens to be then we have to be sure it meets fire safety and other requirements' as well. He said it is his advice to the Board as legal counsel, there is no provision in Indiana law or the Administrative code that requires for a child care home applicant to reside in the residential structure they intend to operate their business.

The Chairman asked the applicants if they had anything to add.

Natalie Cavanaugh stated they are only keeping four children at this time. She said they are infants, which is zero to sixteen months. She said they open at 7:30am; she has her helpers there at 7:20am. She said the technical stuff does say child care center which does confuse some people; it is not a center it is a home. She said they do not want to bother the neighbors and that is not their intention. She stated she has been doing childcare for twelve years and loves children and likes to help the parents out. She said it helps parents and it helps some children to separate them so they get more one on one.

The Chairman asked the Board if they had any questions.

Mike Winge asked Mrs. Cavanaugh if she was not aware that she had to be zoned for that.

Mrs. Cavanaugh said she has done it for years and has never had to. She said they got wind of a complaint and she went to the licensing and asked too many questions and they told her this is what she had to do. She stated she is allowed to watch five or six children without being licensed, and that is what they are doing; when you go into her house she has all the exit signs up, the fire extinguishers, all of the safety stuff to be state licensed but she will not come out to the house, the licensing person, until the zoning is done. Mrs. Cavanaugh stated she doesn't

know that a lot of other home daycares know about this issue. She added that she has not had any neighbors come to them and ask about their plans or anything. She said she doesn't think four infants will cause a problem; she does plan to keep more, not necessarily infants but infants and toddlers. She said it will not be a noise or traffic thing. She said they are there to help parents and to help children out throughout their day while their parents are working.

Don Mottley asked Attorney Doll about a part of the Indiana Administrative Code that states "the applicant or licensee shall provide documentation by a design professional that the structure qualifies as a residential structure before a license for a child care home may be issued."

Attorney Doll stated it does not affect zoning; it affects her ability to get her license from the State Child Welfare Services Department. He said she will have to have an affidavit from an architect or someone of authority who will give her an affidavit that says this is truly a residential structure. He added there are floor limitations, second floor, first floor, and those types of things. He said that requirement only affects her ability to get her state license not her zoning. Attorney Doll added in 36-74-11-08 we are specifically precluded by the General Assembly from excluding child care homes from residential areas solely because a child care home is a business; we are forbidden by the General Assembly to do that. He said we are also forbidden to limit the number of children to a smaller number than the General Assembly has authorized by the class of the child care home.

Mike Winge asked what number they authorized.

Attorney Doll stated this particular case he believes is asking for a class two.

Mrs. Cavanaugh stated she did not ask for a class two, they are able to do that though. She said their numbers were a little bit different on the class two.

Attorney Doll stated class two is up to seventeen.

Mrs. Cavanaugh said sixteen but hers is zero to twelve, which is a regular home daycare but she does know the rules for the class sixteen if that would be an issue.

Attorney Doll said okay but we don't get to choose that; the zoning that may or may not be approved by this Board authorizes you to have a child care home. He said it's the state who decides if it is a class one or class two; we have no jurisdiction to change any of that.

Mrs. Rector asked Attorney Doll if what he was saying is when they did the Ordinance a couple of years ago, that it was wrong.

Attorney Doll said no, and clarified if she meant as to the number of children allowed.

Mrs. Rector said yes.

Attorney Doll said no, he does not think so. He said they have a disagreement about the number of children.

Mrs. Cavanaugh said they were not going for the class two from the State.

Attorney Doll said they were going for the class one then, which is less children.

Mrs. Cavanaugh said zero to twelve. She said she has four children now which she is able to do that without a home childcare license.

Mrs. Rector stated that was correct, anything under six. She wanted to make sure that their ordinance is correct and they don't need to change it. She added that she could have up to six without coming before the Board.

Judy Writsel stated it is not in their jurisdiction to decline this application because it is a business, which is what the State is saying.

Attorney Doll said because of that single point that is correct.

Judy Writsel stated so there would have to be some other reason besides the fact that they are operating a business in a residential area.

Attorney Doll said that is correct.

The Chairman asked Mrs. Cavanaugh that she had stated the daycare starts at 7:30am but her help starts at 7:20am, what is her shut down time.

Mrs. Cavanaugh said 5:30pm.

The Chairman said by looking at the photo, it appears the backyard is fenced in.

Mrs. Cavanaugh said that is correct.

Judy Writsel asked then sometime between 7:30am and say 9:00am there will be as many as twelve car doors opening and closing, at the max.

Mrs. Cavanaugh said that would be the maximum allowed, but that is not what she is wanting there. She said she can only have four infants per helper; you can add a couple of toddlers to that as long as they are over sixteen months. She said she is not going to have three helpers in there so her four plus the two she is able to watch would be six children. She added the only way she could even watch the twelve is if she brings somebody else in also. She said she does not foresee, in that small of a house twelve children.

Attorney Doll stated there is a square footage requirement too.

Mrs. Cavanaugh said yes.

Attorney Doll said it is thirty-five square feet per child.

Mrs. Cavanaugh said it is, it is a little different on the infants but she is not going to mess with that right now. She added that she could get a license that say zero to ten also.

The Chairman asked if there were any remonstrators present who like to speak at this time. Phillip W. Smith approached the podium. He stated he lives at 6700 Valley Road, which is directly across from the driveway of the property in question. He said he is here to protest SU27 for 6677 Valley Road in Newburgh, Indiana. Mr. Smith stated using the Boards criteria for approval or denial of the application under Section Five part B of the Warrick County Comprehensive Plan; he is addressing these criteria with the following information. He said number one, is the specific site an appropriate location for the use; no, this is a non-appropriate location for a commercial business. He said R-1A residential zoning is for single family homes and they would like to keep it that way. He said we the home owners purchased homes in residential area to have a safe area to live and raise our families. He stated number two, will the use as developed adversely affect the surrounding area; yes it will. He said the neighborhood residents will lose property value with a commercial business in the neighborhood and make it harder to sell a home. He stated in a real estate study it has shown that the impact of the home values is adversely affected when a commercial business is introduced into the area. He said number 3, could the use be a nuisance or serious hazard to vehicles, pedestrians, or residents; yes. He said our roads are very narrow. He added they live in a subdivision and do not have sidewalks and the kids have to walk in the road. He said this business will add a lot more traffic to the area making it hazardous for local children walking to and from the school bus stop, which is at the end of the road on Martin Road. He stated this will also be dangerous for regular playing in the general neighborhood. He said these extra fourteen to twenty-four vehicle trips per day that is being requested for this commercial business are bad for us that live in this neighborhood. He added it is a safety issue, not a commercial business issue. He said is there adequate facilities provided for proper operation; no there is not. He said there is not enough parking area to drop off and pick up the commercial business. He said he does not feel like any house in his neighborhood is appropriate for a commercial business, and we already have vehicles parking in the narrow roadway when picking kids up that are being watched at this property at this time. He submitted a picture to the Board. He stated this photo was taken at pick-up time; the car was parked on the side of the road, blocking half of the road as the driveway already had three vehicles in it and they didn't pull in. Mr. Smith said is the use in harmony with Warrick County's Comprehensive Plan; no way ladies and gentlemen. He state the Warrick County Comprehensive Plan was set up to protect the rights of the landowners in its coverage; Article One Section One Statement of Purpose of Comprehensive Plan states "This article is for the purpose of promoting public health, safety, morals, convenience, comfort, amenities, prosperity, economic development, and general welfare of the community that stabilizes and enhances property value to provide for a more uniform land use pattern." He stated that means "R-1" stays "R-1" and "C-2" stays "C-2". He added facilitate adequate provisions for increased safety and traffic and for transportation, vehicular parking, parks, parkway recreations, schools, public buildings, light, air sanitation and other public requirements that lesson congestion, disorder, and unregulated development. He said with this statement of purpose for public health , safety and welfare of the community, in enhancing property values, he is sure they will understand that for these reasons alone, they must not pass this application. He said number six, whether the use is essential or desirable to the public convenience and welfare;

no again. He stated the use is not essential or desirable to the neighborhood it wants to operate in. He added that it will have an adverse effect on the local welfare. He said commercial activities in a residential area are against the fundamental rights of the citizens living there. He stated he would like to thank the Board for their time. He added they have received four or five letters remonstrating against this SU27.

Mike Winge asked Mr. Smith if he was retired.

Mr. Smith said he works every day; he gets home around 5:30.

Mike Winge said so then between him and his wife, how many trips do they come in and out of that road.

Mr. Smith said four.

Mike Winge said then they only make four trips.

Mr. Smith said yes.

Mike Winge said so they only make four trips with his family.

Mr. Smith said yes, but his next door neighbor and he will let him address that, but they make more and they don't need an extra twelve to twenty-four vehicles going up and down the road.

Mike Winge asked Mr. Smith what the square footage is on his house.

Mr. Smith stated that he did not know.

Mike Winge asked if he had an idea.

Mr. Smith said no.

Mike Winge asked if the homes in that area are pretty close to the same square footage.

Mr. Smith said no, theirs is a ranch style and his is bi-level.

Mike Winge said so his is much larger.

Mr. Smith said his is larger.

Michael Wolf approached the podium. He stated he lives at 6688 Valley Road across the street. He stated he would like to reiterate what Phillip Smith said but also his biggest concern is the property values. He said when he found out a daycare was going in there he put his house on the market; he grew up in that neighborhood and bought the house he grew up in. Mr. Wolf said his realtor advised him to get out before the daycare was implemented because property values would go down. He said his biggest concern is a curve that is on the street that goes up the hill.

Mr. Wolf submitted a picture of the curve to the Board. He added that kids ride their bikes down there and it could be devastating. He said it would be dangerous around the bus stop; there are a lot of kids playing down there. He stated there are a lot of older residents that live at the end of the road and it takes them a long time to cross the road to get their mail. He said most people know to stop but he is worried about what all the extra traffic will do.

Don Mottley asked Mr. Wolf if his house has sold.

Mr. Wolf stated no; he had taken it off of the market because he did not want to lower the price so he figured he would fight.

Bill Vaughn approached the podium. He stated he lives at 6644 Valley Road. He questioned the rezoning.

Mrs. Rector said this is not a rezoning at all. She stated it does not change the zoning of the property.

Bill Vaughn stated he didn't know, but thought he had read that.

Mrs. Rector said no, it stays residential.

Bill Vaughn said what he wanted to say about that is if it gets started then a lot of other people could do it too.

The Chairman asked if there were any more remonstrators present, seeing none he asked the applicants to approach the podium.

Don Mottley asked if Mrs. Cavanaugh had said the children are infants, sixteen months and down.

Mrs. Cavanaugh said as of right now, yes.

The Chairman stated that the applicants may respond to the remonstrators if they wanted to.

Mrs. Cavanaugh stated with the parking, they have four spots available. She said with parents, she does not know what parent would not be careful. She stated they want the safety of their children let alone anybody else's children. She added that would be an issue for her if she thought any children would be harmed. She said there are a lot of children in the neighborhood. She said that would be great for working parents. She stated all of those parents have to work and have to have childcare. Mrs. Cavanaugh said the bus issue; there are kids who come to her home and walk home. She said she is hoping that all people would watch out for kids. She said some may not be in the road but you still watch for them and you don't know when they are going to run out, because that's what kids do. She said the house that was for sale; their realtor was the realtor that they bought the house from, so she did have prior knowledge that they were buying the house.

A remonstrator made an inaudible comment.

Mrs. Cavanaugh said it was in the realtors' name that was the seller; of course they went through a different realtor. She said they did not tell anybody what they were doing with the house. She said the question was what they were going to do with the house. She stated they (Wolf) had their house already for sale before they found out that they were the owners. She said the realtor may have said that that is what they are going to do. She stated they got that information from her daughter, who is seventeen. She said their daughter is the same age and are best friends. She said evidently they were digging for information. She stated that is not the issue. She added that yards out there are larger; they are a $\frac{1}{2}$ acre to $\frac{3}{4}$ acre. She said some may be bigger she does not know, which does give them more room between the houses so it's not like the homes are right on top of each other. She said this gives them more space, not that she needs a large yard space for infants and toddlers. Mrs. Cavanaugh said they are not there to irritate their neighbors. She said they are there to watch children, take care of them. She said her hours of 7:30am to 5:30pm are reasonable. She stated if there is a parking issue it is going to be for five minutes. She said most home owners have get together and they do have parking along the street. She said she has let the parents know to try to park in the driveway, but if it is full they are going to park on the road but it will not last more than five minutes. She stated if they are all coming in at the same time, they are going to leave at the same time. She added that with home child care it is supposed to be a safe and secure environment so that would be one of their main concerns for their neighborhood.

Mike Winge stated it was interesting, listening to all of this and with what Attorney Doll said, that the assembly said that you can't refuse them based on that. He said the reason you can't is because today, both people have to work. He said it is hard to make a living with just one person working so he thinks a lot of these things have been brought in for this reason. He said times have changed; when he was a kid, kids stayed home with parents because one worked and one didn't.

Judy Writsel stated that if she still had a child that was in daycare in a residential area, she would feel much more secure. She stated that is where she would want daycare centers, especially this kind, this little one; where there is a sense of being in a home not a commercial academy. She said she would hope that parents driving their children in their vehicles to this place are going to drive very carefully, that's what you do when your kids are in the car. She said she did notice in the section of Valley Road that they have pictured there, she counted more than twenty residences on Valley Road, and out of those twenty they have four remonstrators against this, so most of the neighborhood has not indicated that they have a problem.

The Chairman asked if they bought the property specifically for this.

Mrs. Cavanaugh stated that was their plan. She added that their daughter will be eighteen in October and she will live in the house after she graduates. She said she may stay there on the weekends. She stated when her daughter goes to college she will reside there.

Ascertaining no more remonstrators were present, and being no more questions from the Board, the Chairman called for a motion.

I, Mike Winge, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.
7. The USE is a permitted use in this zoning with the special use approval.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to the rules and regulations of the Warrick County Health Department and all state and federal regulations.
3. Subject to any building permits from the Warrick County Building Department.
4. Subject to no signage
5. Subject to no more than twelve (12) children not related to the provider.

Discussion ensued about the number of children being set in the motion.

Attorney Doll said he thought they should omit that sentence.

Mrs. Rector said no; our Ordinance says anything over 12 requires a commercial zoning.

Attorney Doll stated that in the state statute, if it's a class two it can't be precluded from a residential district.

Mike Winge said so the state supersedes.

Mrs. Rector said that is what she was asking.

Mike Winge stated that they should leave the twelve out because the state does that, so he will make the motion that way.

Attorney Doll said yes.

Judy Writsel seconded the motion. Don Mottley abstained from voting and all other members voted for the motion.

ATTORNEY BUSINESS: None.

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Rector stated the SU27 says at least seven and no more than twelve and then you have to look in the table; go to “C-1” and....

Attorney Doll stated he thought class one is six or less.

Mrs. Rector said right, and you do not need anything from them.

Attorney Doll said he thought class two is seven to twelve, and then centers are required to be in a commercially zoned district. He said her application mistakenly called this an application for a center; she corrected it tonight at the podium. He said she wasn’t asking for a center, she was asking for a home child care home variance and theoretically we do not have a child home care variance.

Mrs. Rector said no, so she should have been limited to twelve children.

Attorney Doll stated in a residential zoned district that is all she can have because she cannot have a center by state statute in a residentially zoned district.

Mrs. Rector stated so in the ordinance SU27, it should not say child care center it should say child care home. She stated that is why it says center because that is what the ordinance says.

Attorney Doll stated it should say home. He said tonight she corrected it and said it was home and not center.

Mrs. Rector said we need to change the ordinance to home, and she needs to be regulated to twelve children.

Attorney Doll stated she is regulated to twelve kids by the state; we don’t have to limit it.

Judy Writsel said the licensing people will deal with that.

Attorney Doll said the state will either limit her to six or twelve depending on if she is a class one or class two because he just reread the whole thing today.

Being no other business the meeting adjourned at 7:55 p.m. Motion by Judy Writsel, seconded by Don Mottley and unanimously carried.

Jeff Valiant, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held August 26, 2013.

Sherri Rector, Executive Director